

E-FILED 12-16-2009

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MEDIMMUNE, LLC,
Plaintiff,
v.

No. C08-05590 JF (HRL)

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION TO COMPEL**

PDL BIOPHARMA,
Defendant.

[Re: Docket No. 191]

Pursuant to a 1997 agreement ("License Agreement") with defendant PDL Biopharma ("PDL"), plaintiff MedImmune LLC ("MedImmune") is licensed to practice certain PDL patents. MedImmune claims that PDL has breached certain provisions of the License Agreement. In this action, plaintiff seeks a declaration of noninfringement and invalidity as to the subject patents, as well as a declaration of contractual rights under the License Agreement.

Presently before the court is MedImmune's motion to compel answers to interrogatories and the production of documents. Plaintiff also requests leave to take more than the 10 depositions allotted under Fed. R. Civ. P. 30.¹ PDL opposes the motion. The motion is also opposed by non-party Alexion Pharmaceuticals, Inc. ("Alexion"), who intervened in this matter to address certain Alexion documents sought by MedImmune. Upon consideration of the

¹ Shortly before the motion hearing, MedImmune withdrew a portion of its motion which sought modification of the Stipulated Protective Order, entered May 26, 2009, to permit certain former MedImmune executives to see PDL's claimed confidential information. The parties advise that they have reached an agreement as to that issue.

1 moving and responding papers, as well as the arguments of counsel, this court grants the motion
2 in part and denies it in part as follows:

3 1. MedImmune's motion to compel a further response to Interrogatories 4 and 5 is
4 granted. Defendant has not managed to persuade that supplemental responses should be
5 deferred. PDL shall serve its supplemental responses to these interrogatories within 10 days
6 from the date of this order. To the extent PDL later discovers information that requires
7 correction of its responses, it has a continuing obligation to supplement pursuant to Fed. R. Civ.
8 P. 26(e).

9 2. MedImmune's motion to compel a further response to Interrogatory 13 is denied.

10 3. MedImmune's motion to compel production of Alexion's opinion letters
11 produced to PDL in *PDL Biopharma, Inc. v. Alexion Pharmaceuticals, Inc.*, C.A. No. 07-156-
12 JJF (D. Del.) is denied. MedImmune has not convincingly demonstrated that the letters are
13 relevant or reasonably calculated to lead to the discovery of admissible evidence.

14 4. Based on the discussion at the motion hearing, and both sides having indicated
15 that they will likely need to take more than the 10 depositions permitted under Fed. R. Civ. P.
16 30, MedImmune's motion is granted as follows: Each side shall be permitted to take up to 15
17 depositions.

18 SO ORDERED.

19 Dated: December 16, 2009

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21 _____
22 HOWARD F. LLOYD
23 UNITED STATES MAGISTRATE JUDGE
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1 5:08-cv-05590-JF Notice electronically mailed to:

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13 Counsel are responsible for distributing copies of this document to co-counsel who have not
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